

>> ALL RISE.
HEAR YE, HEAR YE, HEAR YE.
SUPREME COURT OF FLORIDA IS NOW
IN SESSION.

ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION.
YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,
GREAT STATE OF FLORIDA AND THIS
HONORABLE COURT.

>> LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.
PLEASE BE SEATED.

>> GOOD MORNING, EVERYONE.
WELCOME TO THE FLORIDA SUPREME
COURT.

BEFORE WE BEGIN, LET ME THIS
MORNING THE COURT WOULD LIKE TO
WELCOME A SPECIAL GROUP OF
VISITORS FROM THE UNIVERSITY OF
WEST FLORIDA, ABOUT 37 STUDENTS
AND TEACHERS.

AND THEY ARE IN THE UNIVERSITY'S
LEGAL STUDIES PROGRAM AND HAVE
TRAVELED HERE FROM PENSACOLA TO
OBSERVE TODAY'S ORAL ARGUMENTS.
IF YOU WOULD JUST STAND.

THANK YOU.

AND SECONDLY, JUSTICE POLSTON,
ALTHOUGH HE'S NOT PRESENT TODAY,
HE WILL BE PARTICIPATING IN
THESE CASES.

HE WILL BE OBSERVING THE ORAL
ARGUMENTS AT A LATER TIME.
SO COUNSEL, WHENEVER YOU'RE
READY.

>> GOOD MORNING, YOUR HONORS.
MAY IT PLEASE THE COURT, MY NAME
IS LINDSEY BONY, AND I REPRESENT
CLEMENTE AGUIRRE-JARQUIN, WHO
HAS MAINTAINED HIS INNOCENCE FOR
12 YEARS, THAT HE DID NOT KILL
CHERYL WILLIAMS AND CAROL
BAREIS.

THE COURT SHOULD REVERSE AND
GRANT A NEW TRIAL BECAUSE OF NEW
DNA EVIDENCE THAT EXCLUDES HIM
AND INCULPATES SAMANTHA WILLIAMS
WHO HAS NOW CONFESSED TO THIS
CRIME FIVE TIMES ALONG WITH

FORENSIC EVIDENCE SHOWING THE
KILLER COULD NOT HAVE BEEN
WEARING MR. AGUIRRE'S GUILT.
TRIAL COUNSEL WAS SO INEFFECTIVE
FOR FAILING TO CONSULT WITH A
FORENSIC EXPERT.

THEIR PERFORMANCE UNDERMINES THE
OUTCOME.

I'D LIKE TO WALK THE COURT
THROUGH THE NEW DNA EVIDENCE
USING THE DRAWINGS OF THE
STATE'S CRIME SCENE
INVESTIGATOR.

JUST TO SET THE STAGE, IF WE
COULD, THIS IS WHAT THE STATE
DESCRIBED AT TRIAL AS AN
EXTREMELY VIOLENT CRIME, WHERE
CHERYL WILLIAMS WAS STABBED 129
TIMES.

WHEN THE DEFENDANT CAME IN THE
DOOR, HE FOUND CHERYL WILLIAMS
JUST INSIDE THE FRONT DOOR IN A
POOL OF BLOOD.

HER ELDERLY MOTHER WAS FOUND IN
THE NORTHWEST LIVING ROOM DOWN
IN THE FAR RIGHT CORNER.

THE CRIME SCENE INVESTIGATOR
SWABBED 150 BLOODSTAINS
THROUGHOUT THE MOBILE HOME.
AS YOU TURN THIS TO THE SIDE, AT
THE TOP OF THE PAGE.

BEFORE TRIAL, NONE OF THOSE
BLOODSTAINS HAD BEEN TESTED FOR
DNA.

IN POSTCONVICTION PROCEEDINGS
THEY HAVE BEEN TESTED.

I SHOULD HAVE LISTED A YELLOW
COLOR FOR HIM.

IT DOESN'T SHOW ANY OF HIS
BLOOD.

>> WAS THE CRIME SCENE PERSON
WHO BASICALLY FOUND -- TOOK THE
SAMPLES OF THIS BLOOD AROUND THE
SCENE, WAS THAT PERSON
DEPOSITION TAKEN BY TRIAL -- BY
COUNSEL?

>> I DON'T RECALL THAT -- IN
FACT, HER DEPOSITION WAS NOT
TAKEN.

SHE WAS ASKED AT TRIAL WHY IT

WAS THAT SHE SWABBED THESE BLOODSTAINS.

SHE TESTIFIED BECAUSE SHE WAS LOOKING FOR EVIDENCE THAT MIGHT LEAD TO THE PERPETRATOR.

THIS WAS AWAY FROM WHERE THE BODIES WERE FOUND.

WE SEE HERE IN POSTCONVICTION WE NOW KNOW THAT SAMANTHA WILLIAMS, ONE OF THE KEY WITNESSES AT TRIAL, HER DNA IS FOUND IN EIGHT BLOODSTAINS THROUGHOUT THE CRIME SCENE IN KEY LOCATIONS.

>> WERE ANY OF THE BLOODSTAINS THAT NOW WERE FOUND THAT HAVE SAMANTHA WILLIAMS' DNA MIXED WITH ANY OF THE VICTIMS?

IN OTHER WORDS, SHOWING THAT THE BLOOD, THEY OCCURRED AT THE SAME TIME?

SHE SAYS THERE'S AN EXPLANATION. SHE LIVED IN THE HOUSE AND SHE CUT HERSELF?

>> THAT'S RIGHT, YOUR HONOR. SO THERE WERE SOME STAINS, BUT NONE THAT IDENTIFIED SAMANTHA WILLIAMS AND EITHER OF THE VICTIMS.

BUT SOME WERE IN THE KITCHEN, WHICH TESTIMONY SHOWED HAD BEEN CLEANED THE NIGHT BEFORE THE MURDERS AND HAD BEEN MOPPED.

>> BUT DO WE HAVE ANY EVIDENCE IN THE RECORD THAT WOULD INDICATE THAT SAMANTHA WILLIAMS HAD ANY KIND OF CUTS ON HER AROUND THE TIME OF THE MURDER? BECAUSE IT SEEMS TO ME SHE DID LIVE IN THE HOUSE, AND SO AT SOME POINT SHE COULD HAVE LEFT DNA IN THESE VARIOUS PLACES. AND SO WAS THERE ANY EVIDENCE THAT SHE HAD ANY KIND OF CUTS ON HER AT THE TIME THE MURDER TOOK PLACE?

>> SHE WAS NEVER EXAMINED FOR CUTS, YOUR HONOR.

>> WAS SHE EVER A SUSPECT? WAS SHE EVER -- I MEAN, DID THEY EVER CONSIDER HER A SUSPECT?

>> TRIAL COUNSEL DIDN'T AND THE STATE DIDN'T EITHER BECAUSE THEY DIDN'T PHOTOGRAPH HER HANDS. THEY PHOTOGRAPHED THE HANDS AND ARMS OF OTHER PEOPLE.

THEY DID NOT EXAMINE HER FOR INJURIES.

>> DIDN'T SHE HAVE AN ALIBI FOR THE TIME THAT THE MURDER TOOK PLACE?

HADN'T SHE GONE TO SPEND THE NIGHT WITH HER BOYFRIEND?

>> THERE IS SOME EVIDENCE OF AN ALIBI, YOUR HONOR.

>> SOME EVIDENCE.

I MEAN, THERE'S DIRECT TESTIMONY FROM THE BOYFRIEND THAT SHE WAS THERE THAT NIGHT.

I SLEPT -- I SLEEP LIKE A LOG OR WHATEVER.

THAT'S NOT SOME EVIDENCE.

THERE'S DIRECT EVIDENCE THAT SHE WAS AT MY HOUSE SLEEPING WITH ME.

>> THERE IS, YOUR HONOR.

AND MARK VAN SANDT WAS NEVER CROSS-EXAMINED.

HER DNA THAT'S NOW AT THE CRIME SCENE AND THE CONFESSIONS THAT SHE'S MADE IN THIS CASE SIGNIFICANTLY UNDERMINE THE ALIBI.

IN ADDITION TO THE KITCHEN THAT WAS CLEANED THE NIGHT BEFORE, THERE'S HIGH-TRAFFIC AREA WHERE HER BLOODSTAINS ARE FOUND WITHIN INCHES OF THE VICTIMS' BLOOD, SIGNIFICANTLY IN THE SOUTHEAST BATHROOM, WHERE THE KILLER WOULD HAVE CLEANED UP.

ONE OF HER BLOODSTAINS IS ON THE DOOR AND THREE ON THE FLOOR WITHIN INCHES OF THE VICTIMS' BLOOD.

THE STATE ARGUED THAT'S WHERE THE KILLER WOULD HAVE CLEANED UP.

>> THE REASON THAT THE BOYFRIEND WENT BACK HOME THAT MORNING AND HE DISCOVERED THE BODIES, THE

REASON HE WENT THERE WAS TO PICK UP SOME CLOTHING FOR THE DAUGHTER, HIS GIRLFRIEND, TO GO INTO WORK.

AM I CORRECT?

>> CORRECT.

>> ALL RIGHT.

AND SHE HAD SPENT THE NIGHT WITH HIM.

I GUESS SHE DIDN'T PLAN ON SPENDING THE NIGHT WITH HIM? BECAUSE SHE LEFT THE CLOTHING FOR WORK BACK HOME?

HOW DID THAT WORK OUT?

>> SO, YOUR HONOR, THE DRYER WAS BROKEN AT HER RESIDENCE. AND SO SHE WAS GOING TO BRING THEM BACK TO MR. VAN SANDT'S HOME TO DRY THEM.

THE EVIDENCE AT TRIAL WAS THAT SHE HAD HAD A FIGHT WITH HER MOTHER ON THE NIGHT BEFORE. SHE HAD SPILLED SOME ICE WHILE THEY WERE MAKING DAIQUIRIS ON THE FLOOR.

SO THEY HAVE A FIGHT.

THEY LEAVE THE HOUSE.

THAT'S WHY SHE ENDED UP AT MARK VAN SANDT'S HOUSE.

WE NOW KNOW THAT SHE TOLD MARK VAN SANDT BEFORE HE LEAVES HIS PARENTS' HOUSE TO GO GET THE CLOTHES, OSTENSIBLY TO GET THE CLOTHES, WOULD HE MIND GOING OVER TO THE HOUSE, THAT SHE HAD A BAD FEELING ABOUT HER MOTHER AND HER GRANDMOTHER.

AND SO IN ADDITION TO THIS DNA EVIDENCE, WE NOW HAVE FIVE CONFESSIONS.

AND WE NOW KNOW --

>> LET ME GO BACK OVER SOMETHING, BECAUSE WE'RE LOOKING AT TWO DIFFERENT STANDARDS, NEWLY-DISCOVERED EVIDENCE AND INEFFECTIVE ASSISTANCE OF COUNSEL WITH A LESSER BURDEN FOR YOU, UNDERMINING CONFIDENCE. SO JUST STICKING TO THE BLOOD, THE BLOOD IS NOT

NEWLY-DISCOVERED EVIDENCE.
AND IT'S NOT BRADY BECAUSE THE
STATE, FOR WHATEVER REASON, DID
NOT TEST IT.

SO YOUR ARGUMENT FOR THE BLOOD
WOULD BE THAT THE TRIAL COUNSEL
WAS DEFICIENT IN NOT ENSURING
THAT ALL OF THE BLOOD WAS
TESTED?

I MEAN, I'M JUST TRYING TO GET
THAT AND THEN WE CAN GO TO THE
CONFESSION.

>> SURE.

SO JUST SO I'M CLEAR, WHEN YOU
SAY THE BLOOD, YOU MEAN THE DNA
TESTING.

>> THE DNA TESTING.

EVERYBODY KNEW THERE WAS HOW
MUCH AGAIN?

>> 150 BLOODSTAINS.

>> ONLY HOW MANY WERE TESTED?

>> NONE OF THEM WERE TESTED
BEFORE TRIAL.

ALL OF THEM HAVE NOW BEEN
TESTED.

>> WAS THERE EVER AN EXPLANATION
FOR WHY NONE OF THEM WERE TESTED
FOR DNA?

>> SO AT TRIAL, TRIAL COUNSEL
DECIDED THAT HE WAS GOING TO
ARGUE THERE WAS NO EVIDENCE OF
HIS CLIENT'S DNA THERE.

MY CLIENT ASKED HIM TO HAVE THE
DNA TESTED.

COUNSEL TESTIFIED THEY DIDN'T
THINK THEY WOULD FIND THE DNA
THERE.

THE STATE ARGUED IN CLOSING WE
CAN'T TEST EVERYTHING.

WE'D BE HERE FOR WEEKS.

BUT WE KNOW HE WALKED INTO THAT
SOUTHEAST BATHROOM AND WIPED HIS
HANDS ON THAT TOWEL.

NONE OF HIS DNA IS ON THE TOWEL.
INSTEAD, SAMANTHA HAS FOUR
THERE.

>> FOOTPRINTS OF THIS DEFENDANT
IN BLOOD ARE UNDER ONE OF THE
BODIES, CORRECT?

>> THERE IS ONE FOOTPRINT THAT

IS UNDER THE BODIES.

>> ONLY ONE FOOTPRINT?

>> ONE FOOTPRINT THAT IS UNDER THE BODIES.

THERE ARE NUMEROUS FOOTPRINTS AT THE SCENE, YOUR HONOR.

TRIAL COUNSEL DID NOT HIRE A FOOTPRINT EXPERT BEFORE TRIAL, BUT NOW --

>> WELL, IS THERE ANY NEW EVIDENCE THAT THIS IS NOT HIS FOOTPRINT?

>> NO, SIR, THERE'S NOT, YOUR HONOR.

>> SO YOU CAN STAND BACK AND CRITICIZE ALL KINDS OF EVIDENCE, BUT IF THERE'S NOTHING DIFFERENT NOW, ALL THAT IS IS YOUR STATEMENT.

>> SURE.

I'M NOT MEANING TO SUGGEST JUST BECAUSE OF THAT NEW EVIDENCE. HIS EVIDENCE IS THAT HIS FOOTPRINTS WERE IN A STRAIGHT LINE.

IN PLACES HE WALKED AROUND --

>> ON THE FOOTPRINTS IS THERE ANY EVIDENCE THAT WOULD SUGGEST THAT THERE ARE FOOTPRINTS OF SAMANTHA WILLIAMS AT THE SCENE?

>> THERE ARE NONE, YOUR HONOR. BUT WHEN MARK VAN SANDT SHOWED UP --

>> WELL, EXPLAIN THAT TO ME. BECAUSE YOU'VE GOT THIS BLOOD ALL OVER THE PLACE, THE VICTIMS' BLOOD, ALL OVER THE PLACE, AND THESE FOOTPRINTS THAT ARE LEFT, THE DEFENDANT, THERE'S NO DISPUTE THAT HE LEFT THOSE FOOTPRINTS.

BUT THAT THE SUPPOSED PERPETRATOR UNDER THIS ALTERNATIVE THEORY LEFT NO FOOTPRINTS.

I'M HAVING TROUBLE UNDERSTANDING THAT.

WHY DOESN'T THAT JUST CREATE A PROBLEM FOR THIS THEORY?

>> SO, YOUR HONOR, THERE'S A

VARIETY OF WAYS THAT THIS COULD HAVE BEEN PERPETRATED BY SAMANTHA WILLIAMS WITHOUT HER LEAVING FOOTPRINTS, INCLUDING WHEN MARK VAN SANDT SHOWS UP AND FINDS THE BODIES, HE'S BAREFOOT. IT COULD HAVE BEEN POSSIBLE THAT SHE WAS BAREFOOT.

SHE COULD HAVE COMMITTED THE CRIMES AND LEFT BEFORE THERE WAS ANY TIME FOR THE BLOOD TO POOL. THE POINT OF ALL THIS --

>> BUT PEOPLE WHO ARE BAREFOOT LEAVE FOOTPRINTS IN BLOOD.

>> THEY CAN AND THE BLOOD LATER FLOWS OUT AND COVERS THEM UP.

>> WHY WOULD THAT BE ANY MORE OF AN ISSUE WITH A BAREFOOT THAN A SHOD FOOT, IF THAT'S THE RIGHT TERM?

>> BECAUSE IT WOULDN'T NECESSARILY LEAVE THE SAME SORT OF PRINT.

THE POINT SIMPLY IS THAT THIS ISN'T OUR BURDEN TO PROVE.

WE CAN LET A NEW JURY CONSIDER ALL OF THIS.

OUR BURDEN IS TO PROVE REASONABLE DOUBT.

>> ARE WE NOT TO LOOK AT THE TOTALITY OF THE EVIDENCE AS WE LOOK AT ALL OF THESE THINGS AS TO THE PREJUDICIAL END?

>> SURE.

AND, YOUR HONOR --

>> THEN WHAT DO WE DO WITH THINGS SUCH AS THE KNIFE, THAT APPARENTLY CAME FROM THE KITCHEN OF THE RESTAURANT WHERE THIS DEFENDANT WORKED?

>> YOUR HONOR, THE DEFENDANT IS CONFLICTING.

THERE WAS TESTIMONY THAT COULD HAVE COME FROM THE RESTAURANT THAT HE WORKED AT.

IT ALSO COULD HAVE COME FROM THE NEXT-DOOR NEIGHBOR'S HOUSE.

THERE'S ALSO TESTIMONY THAT THESE PEOPLE HAD ACCESS TO EACH OTHER'S HOMES, THAT SAMANTHA

WILLIAMS FREQUENTLY WENT OVER TO THEIR HOMES WHERE THEY HAD BBQs, SHARED UTENSILS. THERE'S ALL KINDS OF EVIDENCE THAT COULD BE EXPLAINED TO A NEW JURY.

>> I THINK YOU WERE ABOUT TO GO INTO WHAT SHE'S CONFESSED TO. SO I WANT TO KNOW -- WE WERE TALKING ABOUT THE BLOOD AS BEING BLOOD THAT HAD NEVER BEEN TESTED AND NOW IT'S TESTED.

>> RIGHT.

>> HER STATEMENTS THAT YOU SAID ARE HER CONFESSIONS, WHEN DID THOSE START HAPPENING?

DOES THAT QUALIFY AS THE NEWLY-DISCOVERED EVIDENCE PART, WHAT SHE SAID, AND WHEN DID SHE START SAYING THESE STATEMENTS AND TO WHOM?

>> SURE.

AND IF I MAY, JUST TO FINISH ANSWERING YOUR QUESTION, THE NEW DNA GOES TO BOTH.

THE NEW DNA TESTS ARE NEWLY-DISCOVERED EVIDENCE. BUT THE CONFESSIONS HERE, THERE'S FIVE.

TWO OF THEM HAPPENED IN 2010.

THE MURDERS ARE IN 2004.

THE TRIAL IS IN 2006.

IT'S IN 2010.

SAMANTHA WILLIAMS CONFESSES TO HER FRIEND, NICOLE CASEY, DEMONS IN MY HEAD MADE ME KILL MY MOTHER AND GRANDMOTHER.

SHE'S PANTOMIMING A STABBING MOTION TOWARD HER CHEST.

TWO MORE WERE MADE IN THE SUMMER OF 2012 WHILE DNA COLLECTION WAS ONGOING IN THIS CASE.

SAMANTHA WILLIAMS HAD HER CHEEK SWABBED.

DURING THAT PERIOD OF TIME SHE CONFESSED TO THREE OF HER NEIGHBORS THAT I KILLED MY MOTHER AND MY GRANDMOTHER.

>> LET'S, IN CANDOR, THE EARLIER ONES ARE PROBABLY IN THE NATURE

OF A CONFESSION.

THE LATER ONES, AREN'T THOSE IN THE NATURE OF THREATS TO OTHER INDIVIDUALS THAT, YOU KNOW, YOU CAN'T FRIGHTEN ME?

I'VE KILLED BEFORE AND I'LL KILL AGAIN, THAT KIND OF THING?

IS THAT -- IN CANDOR, WAS THAT WHAT HAPPENED?

>> SURE.

YOUR HONOR, I DON'T --

>> HOW MANY ARE IN EACH CATEGORY, PLEASE.

>> I DON'T THINK YOU NECESSARILY HAVE TO SEPARATE THEM OUT.

>> HOW MANY IN EACH CATEGORY.

>> THE ONLY THREATS WERE THE THREE AT THE END.

>> SO WE HAVE TWO THAT ARE IN THE NATURE OF A CONFESSION THAT YOU AND I WOULD SIT DOWN AND TALK, ABSENT THIS CASE, THAT THOSE REALLY APPEAR TO BE CONFESSIONS.

>> EXCEPT YOU CAN ALSO CONFESS TO A CRIME WHILE YOU ARE THREATENING SOMEONE.

>> I UNDERSTAND YOUR INTERPRETATION, BUT WE'VE GOT TWO DIFFERENT CATEGORIES HERE. DO YOU DISAGREE WITH THAT?

>> THE STATE CONCEDES, THEY DON'T DISPUTE THAT THESE ARE CONFESSIONS TO THIS CRIME.

>> I DON'T KNOW WHAT THEY CONCEDE OR DON'T CONCEDE, BUT YOU'RE NOT WILLING TO CONCEDE THAT THOSE ARE IN DIFFERENT CATEGORIES.

>> I CAN CONCEDE THAT THEY ARE IN DIFFERENT CATEGORIES, YOUR HONOR, AND THAT A JURY COULD DETERMINE WHETHER THE THREAT NATURE OF IT SOMEHOW UNDERMINES THE CONFIDENCE.

>> THE CONTENT OF IT.

>> AND WHETHER IT HAS SUFFICIENT INDICIA OF RELIABILITY.

>> THESE AREN'T JAILHOUSE SNITCHES, WERE THEY?

>> NO.
THEY WERE MADE TO HER FRIEND AND
NEIGHBORS.
>> WHAT ABOUT THE BAKER ACT?
WHEN DID THAT OCCUR?
AND WHAT ARE CONTAINED IN THOSE
RECORDS?
>> SO SAMANTHA WILLIAMS HAS BEEN
INVOLUNTARILY COMMITTED 60
TIMES, SOME OF THEM BEFORE THE
CRIMES.
>> HOW OLD WAS SHE AT THE TIME
OF THE CRIME?
>> SO AT THE TIME OF THE CRIME
SHE WOULD HAVE BEEN 18 IN 2001,
SO SHE WAS ROUGHLY 22 AT THE
TIME OF THE CRIME.
>> DURING SOME OF THESE SHE EVEN
THREATENED TO KILL THE PEOPLE
THAT PLACED HER THERE.
>> OH, THAT'S RIGHT.
SO IN SOMEONE HER MOTHER CALLS
THE POLICE, SAYS I'M AFRAID OF
MY DAUGHTER, I THINK SHE'S GOING
TO HURT ME.
SHE'S INVOLUNTARILY COMMITTED.
WHILE SHE'S IN THE HOSPITAL --
>> THAT'S THREE YEARS BEFORE THE
CRIME.
>> THREE YEARS BEFORE THE CRIME.
>> THAT'S NOT NEWLY-DISCOVERED
EVIDENCE.
WHO DISCOVERED THAT WHEN?
>> SOME OF THESE BAKER ACT
RECORDS, YOUR HONOR, WERE IN
TRIAL COUNSEL'S FILES, BUT MANY
WERE NEW THAT POSTCONVICTION
COUNSEL BEGAN TO DEVELOP AFTER
THE DNA RETURNED.
>> DID THEY TRY TO USE THAT AT
TRIAL?
>> THEY DID NOT.
>> LET ME GO BACK FOR A MOMENT
ABOUT WHAT SHE ACTUALLY SAID TO
THE NEIGHBORS.
I THOUGHT I UNDERSTOOD THAT SHE
ACTUALLY SAID STATEMENTS MORE TO
THE EFFECT OF I'M NOT AFRAID OF
YOU 'CAUSE I ALREADY KILLED MY
MOTHER AND MY GRANDMOTHER.

AND SO I ACTUALLY VIEWED THOSE AS ACTUAL CONFESSIONS THAT SHE HAD MADE ABOUT -- AM I WRONG IN THAT?

>> NOT AT ALL, YOUR HONOR. I'M NOT WALKING AWAY FROM THE FACT THAT THESE ARE CONFESSIONS. IT'S JUST SIMPLY THAT I GUESS THEY COULD BE GROUPED DIFFERENTLY BECAUSE WITHIN THE WHOLE REALM OF CONFESSIONS, THESE THREE MIGHT ALSO BE CONSIDERED THREATS. I DON'T THINK THAT THEY'RE MUTUALLY EXCLUSIVE.

>> WELL, I DO CONSIDER THEM TO BE THREATS, BUT INCLUDED IN THE THREAT, IT SEEMS TO ME, IS AN AFFIRMATIVE STATEMENT THAT SHE KILLED HER MOTHER AND HER GRANDMOTHER.

>> CORRECT. AND SHE SAID -- THESE WERE HER EXACT WORDS.

THE JUDGE ACTUALLY ASKED QUESTIONS FROM THE BENCH AND SAID I WANT TO KNOW THE EXACT WORDS.

WAS SHE SAYING SHE HAD SOME SORT OF REMORSE OR SHE FELT GUILTY OR SHE'S RESPONSIBLE FOR.

AND THE WITNESSES SAID, NO, YOUR HONOR.

SHE SAID I'M NOT AFRAID OF YOU. I KILLED MY MOTHER AND MY GRANDMOTHER.

AND IN A CASE LIKE THIS WHERE THERE'S TESTIMONIAL EVIDENCE, NEW FORENSIC EVIDENCE, THIS IS VERY SIMILAR TO THIS COURT'S DECISIONS IN HILDWIN AND SWAFFORD AND I'LL RESERVE THE REST OF MY TIME FOR REBUTTAL.

>> MAY IT PLEASE THE COURT, COUNSEL, ASSISTANT ATTORNEY GENERAL JIM REICKS ON BEHALF OF THE STATE OF FLORIDA.

I WOULD FIRST LIKE TO ADDRESS AND CLEAR UP A MATTER WITH RESPECT TO THE QUESTION THIS

COURT POSED WITH REGARD TO
SAMANTHA'S INJURIES AND WHETHER
OR NOT THEY WERE INVESTIGATED.
THEY WERE IN FACT INVESTIGATED.

>> SHE HAD SOME INJURIES?
THERE WAS SOME CUTS OR SOMETHING
ON HER?

>> NO.
I APOLOGIZE.
I MISSPOKE.

SHE WAS INVESTIGATED TO
DETERMINE WHETHER OR NOT SHE HAD
INJURIES.

DETECTIVE HEMMERT WAS A HOMICIDE
DETECTIVE.

THIS INVESTIGATION BEGAN THE
SAME DAY OF THE MURDERS.

THE MURDERS OCCURRED ABOUT 5:00
IN THE MORNING.

THEY WERE DISCOVERED WHEN HER
BOYFRIEND WENT TO HER HOUSE TO
GET HER CLOTHING.

SAMANTHA WAS INVESTIGATED.

THE DETECTIVE SPOKE WITH
SAMANTHA.

HE LOOKED AT HER HANDS.
HE LOOKED AT HER ALL OVER FOR
ANY INJURIES.

HIS ACTUAL TESTIMONY WITH
RESPECT TO THIS WAS THAT HE
LOOKED FOR INJURIES ON ANYONE HE
CAME INTO CONTACT RELATED TO
THIS CASE.

HIS SUPERVISOR ASKED SAMANTHA
ABOUT MARKS ON HER ARM, WHICH
WERE NOT ON HER HANDS, WHICH SHE
EXPLAINED WERE BURN MARKS SHE
GOT FROM REACHING INTO THE OVEN
AT WORK.

SO THAT'S EVIDENCE ON THE RECORD
THAT SHOWS THAT THEY LOOKED, LAW
ENFORCEMENT AND THE STATE OF
FLORIDA DID LOOK AT SAMANTHA.

>> AND THIS EVIDENCE WAS
PRESENTED AT THE EVIDENTIARY
HEARING OR --

>> YES.

>> -- PRETRIAL?

>> THIS WOULD HAVE BEEN DURING
TRIAL TO ESTABLISH WHY SAMANTHA

WAS NOT CONSIDERED A SUSPECT IN THE CASE.

>> AND THE ISSUE DID COME UP AT THE TRIAL OR PRETRIAL ABOUT WHETHER OR NOT SAMANTHA WAS A SUSPECT?

>> YES.

AND THE RECORD IS VOLUME 23R2180, WHICH IS WHERE THIS TESTIMONY --

>> BUT HOW IS IT THAT NO ONE TESTED THE BLOODSTAINS FOR DNA AND THAT DEFENDANT'S DNA IS NOT IN WHAT WAS TESTED?

>> I CAN'T COMMENT ON THE PROSECUTION'S DECISION AND LAW ENFORCEMENT'S DECISION AS TO --

>> SO IT'S NEWLY-DISCOVERED EVIDENCE, CORRECT?

AT THE VERY LEAST.

NOW, WHETHER IT LEADS TO A PROBABILITY OF AN ACQUITTAL, IF THE STATE DIDN'T TEST IT AND IT'S NOW BEEN TESTED AND IT SHOWS SAMANTHA WILLIAMS' DNA, WHETHER YOU HAVE ANOTHER EXPLANATION FOR IT, IT'S NEWLY-DISCOVERED EVIDENCE.

>> THE STATE DOES NOT DISPUTE THAT SAMANTHA'S DNA IS NEWLY DISCOVERED.

>> NOW, ON THE ISSUE OF THE FOOTPRINTS, THE BOYFRIEND, WAS HIS FOOTPRINTS FOUND IN THE HOME?

>> NO.

>> SO, AGAIN, GOING BACK TO THESE QUESTIONS ABOUT WHOSE FOOTPRINTS ARE THERE, NOW, THE DEFENDANT ADMITS HE CAME IN BECAUSE -- OR HE TRIED TO COME IN AND HE HELD THE BODY.

WHAT'S THE EXPLANATION FOR WHY THE BOYFRIEND'S, WHO SAYS HE DISCOVERED THE BODY, WHY HIS FOOTPRINTS WERE NOT IN THERE?

>> I DON'T BELIEVE THE BOYFRIEND EVER WALKED INTO THE HOME. HE DISCOVERED THE BODIES AND THEN CALLED LAW ENFORCEMENT.

>> WELL, HOW DO YOU DISCOVER THE BODIES IF YOU DON'T GO IN?

>> HE DISCOVERED THE FIRST BODY. THE BODY OF CHERYL WAS ACTUALLY BLOCKING THE FRONT DOOR.

>> HE DIDN'T GO IN.

>> YEAH.

HE OPENED IT ENOUGH TO DISCOVER THERE WAS A DEAD BODY BLOCKING THE FRONT DOOR AND THEN HE CONTACTED LAW ENFORCEMENT.

NOW, HE --

>> HE DID TESTIFY, I THINK AS MENTIONED EARLIER, THAT BEFORE LEAVING TO PICK UP THE CLOTHES, THAT SAMANTHA HAD TOLD HIM, YOU KNOW, LOOK THROUGH THE WINDOWS FIRST.

I HAVE A BAD FEELING SOMETHING'S HAPPENED.

THAT DID COME OUT, CORRECT?

>> THAT DID COME OUT.

THAT IS ON RECORD.

THAT TESTIMONY IS ON RECORD.

BUT THAT'S NOT PROBATIVE OF ANYTHING SUBSTANTIAL WITH RESPECT TO WHETHER OR NOT SHE IS RESPONSIBLE FOR THE MURDER.

I MEAN --

>> WELL, IT WOULD BE HARD FOR ME TO THINK THAT THE STATE, IF IT WERE SAMANTHA WILLIAMS ON TRIAL, WOULD NOT HAVE USED THAT TRIAL AS INculpATORY.

I MEAN, I HAVE A BAD FEELING.

>> WELL, I WOULD ARGUE IT'S NOT INculpATORY.

IF SHE WAS THE MURDERER, IT WOULDN'T BE A BAD FEELING. SHE WOULD KNOW SOMETHING TERRIBLE HAPPENED.

>> WELL, SHE'S TRYING TO HAVE AN ALIBI.

>> SHE'S NOT CONFESSING TO HIM. I'M SORRY.

>> SHE'S SAYING, HEY, LISTEN, GO OVER, GET MY CLOTHES.

I LEFT HER IN THE NIGHT, BUT I'M NOT TELLING YOU I DID.

WHY DIDN'T SHE GO GET THE

CLOTHES?

>> SHE DOESN'T DRIVE HER
BOYFRIEND'S TRUCK.
IT WAS 600 HORSEPOWER.
HE SAID HE NEVER LETS HER DRIVE
IT.

THERE'S A LOGICAL REASON AS TO
WHY.

>> WHAT DID SHE SAY IN HER BAKER
ACT RECORDS FROM THREE YEARS
BEFORE THIS CRIME?

DID SHE -- WHAT DID SHE SAY
ABOUT WANTING TO KILL HER
MOTHER?

AND WHAT DID HER MOTHER SAY IN
THOSE RECORDS?

>> SHE NEVER SAID SHE WANTED TO
KILL HER MOTHER.

>> WHY WAS SHE BAKER ACTED IN
2001?

>> SHE WAS BAKER ACTED MANY,
MANY, MANY TIMES.
SPECIFICALLY IN SOMEONE, I
BELIEVE THE ISSUE THAT YOUR
HONOR IS POINTING TO IS WHEN SHE
SAID I'LL KILL YOU WHILE SHE WAS
WITH HER MOTHER DURING AN
INSTANT WHERE SHE WAS BAKER
ACTED.

>> DID HER MOTHER BAKER ACT HER?

>> I DON'T KNOW WHO ACTUALLY DID
IT.

MOST LIKELY.

SHE WAS BAKER ACTED MANY, MANY
TIMES.

SHE ROUTINELY WOULD SMASH HER
HEAD AGAINST WALLS, BREAK OUT
WINDOWS IN THE HOUSE WITH HER
HEAD AND HER HANDS.

>> DID THE JURY KNOW THIS ABOUT
THIS WITNESS?

>> WELL, DEFENSE COUNSEL
EXPLAINED THAT HE DID NOT
INVESTIGATE THE BAKER ACT
INFORMATION.

HE DIDN'T THINK HE WOULD HAVE A
LEGAL BASIS TO GET INTO THAT
INFORMATION.

IT IS IMPORTANT TO KNOW THAT
SAMANTHA WAS NEVER VIOLENT

TOWARDS ANYBODY INDIVIDUALLY.
SHE ALWAYS HURT HERSELF.
SHE NEVER HURT ANOTHER PERSON.
THERE'S NOTHING ON RECORD TO
SHOW SHE EVER DID HURT ANYBODY.
>> LET ME ASK YOU THIS AS FAR AS
MOTIVE, THOUGH, AND LOOKING AT
WHETHER A NEW TRIAL SHOULD BE
GRANTED.

NO ONE'S SAYING THAT THE
DEFENDANT SHOULD GO FREE.
HE'S ALWAYS MAINTAINED HIS
INNOCENCE, RIGHT?

THERE'S NO CONFESSION.

>> THERE IS AN INDICATION ON THE
RECORD THAT WHEN DR. DAY, WHO
WAS RETAINED AS AN EXPERT FOR
THE PENALTY PHASE PURPOSES, WAS
EVALUATING HIM.

DR. DAY AND THE INTERPRETER
WITNESSED HIM, HEARD HIM SAY, I
DID THIS TO THESE PEOPLE.
THEY IMMEDIATELY REPORTED THAT
TO COUNSEL.

THIS WAS PRIOR TO TRIAL.
COUNSEL THEN WENT ON MONDAY --
THIS WAS ON THE WEEKEND.
COUNSEL WENT ON MONDAY TO THE
JAIL TO SAY THIS COULD CHANGE MY
PENALTY PHASE STRATEGY.

ARE YOU GOING TO SAY HE DID
THAT?

AND HE SAID I DON'T WANT TO TALK
ABOUT THAT.

>> SO OKAY.

SO THERE'S SOMETHING.

I GUESS WHAT I WAS GOING TO WAS
THE MOTIVE.

WHAT MOTIVE DID THE -- AND YOU
DON'T NEED TO HAVE ONE -- DID
THE STATE ADVANCE AT TRIAL FOR
WHY THIS DEFENDANT WOULD HAVE
KILLED A MOTHER AND A
GRANDMOTHER THAT KNOW -- WHY
WOULD THAT HAVE BEEN?

>> I CAN'T STATE THE STREET
CONCRETELY PROVED A MOTIVE.
AND AS YOUR HONOR JUST
MENTIONED, IT WASN'T NECESSARY.
HOWEVER, RELATIVE TO MOTIVE WAS

SAMANTHA'S TESTIMONY THAT ABOUT SEVEN MONTHS PRIOR TO THE MURDERS, SHE WOKE UP TO FIND THE DEFENDANT STANDING NEXT TO HER BED IN THE HOUSE AND SHE SCREAMED, GOT HIM OUT OF THE HOUSE, LOCKED THE DOOR BEHIND HIM.

HE HAD BEEN FAMILIAR WITH THIS FAMILY.

HE HAD GONE TO THEIR HOUSE. HE WOULD GET BEERS FROM THEM FROM TIME TO TIME.

>> DID HE ADMIT HE HAD BEEN IN THE HOUSE?

>> OH, HE ADMITTED THAT HE HAD BEEN IN THAT HOUSE PREVIOUSLY.

>> AND THAT HE HAD DONE THAT TO -- BECAUSE, AGAIN, THAT'S COMING FROM SAMANTHA WILLIAMS, WHICH I THINK I THOUGHT WHY DID THAT EVEN COME OUT AT TRIAL.

IT'S A PRIOR BAD ACT EIGHT MONTHS BEFORE.

WHAT WOULD BE SAMANTHA WILLIAMS' MOTIVE?

DOESN'T SOUND LIKE THERE'S A MOTIVE.

I GUESS WHAT I'M GETTING AT REGARDING WHETHER THIS WHOLE PICTURE REQUIRES A NEW TRIAL, THE DAUGHTER WOULD HAVE A MOTIVE.

SHE'S NOT -- 60 TIMES BAKER ACTED, I MEAN, I'M SURE THAT'S HAPPENED BEFORE, BUT THAT'S A SERIOUSLY MENTALLY-CHALLENGED INDIVIDUAL WHO HAS A MOTHER WHO HAS EXPRESSED THAT SHE WAS AFRAID OF HER AND NOW WE HAVE CONFESSIONS THAT SHE DID IT. AND HER DNA.

>> WE'RE GOING DOWN A VERY SLIPPERY SLOPE IF WE SAY THAT SOMEBODY WHO HAS BEEN MENTALLY ILL AND HAS ACTED OUT --

>> WHO HAS SAID SHE WOULD KILL HER MOTHER.

>> SHE NEVER SAID SHE WOULD KILL HER MOTHER.

>> I THOUGHT SHE SAID I WOULD
KILL YOU.

>> THERE'S TESTIMONY, IF YOU GO
TO THAT TESTIMONY WITH RESPECT
TO THAT, IT WAS UNCLEAR AS TO
WHO "YOU" WAS WHEN SHE SAID I
WILL KILL YOU.

SHE WAS IN A MANIC, FRANTIC
STATE, EXTREMELY AGITATED, AND
THERE WERE MANY PEOPLE IN THE
ROOM.

IT WAS UNCLEAR SHE WAS TALKING
TO HER MOTHER WHEN THAT
STATEMENT WAS MADE.

>> WAS SHE ON MEDICATION?

>> SHE HAS FOUR DIAGNOSES, AND
IT INCLUDES BIPOLAR,
INTERMITTENT EXPLOSIVE DISORDER
AND SCHIZOPHRENIC THINGS.

NOW, I KNOW YOU'RE THINKING HOW
IS THAT HELPING MY CASE.

>> NO.

IT DOES SOUND LIKE MANY OF OUR
DEFENDANTS WHO WHEN WE'RE TRYING
TO FIGURE OUT WHY THEY WOULD
KILL, THAT WE SEE THAT THEY'VE
GOT THIS MENTAL ILLNESS.

SO IT'S NOT THAT IT IS
NECESSARILY INCULPATORY OR
EXCULPATORY, BUT IT STARTS TO
PAINT A PICTURE OF THE PERSON
WHO MAY HAVE COMMITTED THESE
MURDERS.

>> SURE.

I UNDERSTAND THAT POINT.
BUT, AGAIN, THERE WAS NO
PRECIPITATING EVENT THAT WOULD
HAVE TRIGGERED A MOTIVE.

>> HOW DO WE KNOW THAT?

>> THERE'S NOTHING ON EVIDENCE.
THERE'S NO EVIDENCE OF ANYTHING.

>> IF SHE IS THE PERSON THAT DID
IT, WE DON'T KNOW.

DID SHE HAVE A FIGHT WITH THEM
THAT DAY?

SHE LEFT THE HOUSE TO GO TO HER
BOYFRIEND AND THOUGHT SHE'S
GOING TO GO BACK?

WAS SHE IN A MANIC STATE?

>> THE TESTIMONY IS SHE WAS

SLEEPING SOUNDLY IN BED AT MARK VAN SANDT'S HOUSE.

>> BUT BEFORE THEY LEFT, WASN'T THERE SOME KIND OF BACK AND FORTH BETWEEN THEM BECAUSE SHE HAD SPILLED SOMETHING ON THE FLOOR AND THE MOTHER HAD EITHER JUST WASHED THE FLOOR OR WAS ABOUT TO WASH IT.

I MEAN, THERE IS SOME EVIDENCE THAT THERE WAS SOMETHING GOING ON THAT DAY, CORRECT?

>> MARK VAN SANDT TESTIMONY THAT THEY DECIDED TO GO TO HIS HOUSE TO REST BECAUSE THEY WERE NOT GOING TO GET ANY PEACE BECAUSE THE MOTHER WAS UPSET WITH THEM FOR MAKING A MESS IN THE KITCHEN.

>> YOU KNOW, I'M GOING TO GO BACK TO A STATEMENT THAT YOU MADE EARLIER, THAT THERE WAS NEVER ANY -- THAT SHE NEVER HAD ANY VIOLENCE TOWARD ANYONE BUT HERSELF.

BUT IT SEEMS TO ME THERE'S SOMETHING IN THE RECORD THAT TALKS ABOUT HER HAVING HIT HER MOTHER, SHOVED HER FATHER, BUSTED WINDOWS OUT, KICKED HOLES IN THE WALL.

AND SO, YOU KNOW, IS THAT NOT TRUE, THAT THE RECORDS DEMONSTRATE THIS KIND OF VIOLENCE ON HER BEHALF?

>> I'M NOT AWARE OF THE BATTERIES.

I'M AWARE OF THE BUSTING OUT WINDOWS AND KICKING THE WALLS.

>> BUT THE RECORD IS WHAT THE RECORD IS.

IF THERE'S SOMETHING IN THERE THAT SAYS THAT SHE'S BEEN VIOLENT TOWARD PEOPLE --

>> LET ME ASK YOU THIS, IN A NUTSHELL, MORE OR LESS.

THE GUILT PHASE.

WHAT EXACTLY WAS THE CASE AGAINST MR. AGUIRRE?

WHAT WAS THE EVIDENCE PRESENTED

WHAT CONVICTED HIM?
WHAT WAS THE EVIDENCE PRESENTED
BY THE STATE?
WHAT DID YOU HAVE ON HIM?
>> OKAY.
AND THIS WILL EXPLAIN WHY THE
ARGUMENT WITH RESPECT TO THE
NEWLY-DISCOVERED DNA EVIDENCE IS
REALLY A RED HERRING, WHERE WE
HAVE SAMANTHA INVESTIGATED AND
SHE HAD NO INJURIES.
THE DEFENDANT HIMSELF HAD NO
CUTS OR INJURIES.
THAT'S WHY THERE WAS NONE OF HIS
BLOOD LEFT AT THE SCENE.
THE PERSON WHO KILLED THIS WAS
NOT INJURED OR CUT TO THE POINT
WHERE THEY WOULD HAVE LEFT ANY
BLOOD.
THERE IS NO MIXED DNA BETWEEN
THE VICTIMS AND ANY ASSAILANT.
>> WHAT EVIDENCE SHOWED THAT IT
WAS AGUIRRE?
>> THE FOOTPRINT EVIDENCE WAS
EXTREMELY COMPELLING.
AND LET ME EXPLAIN WHY.
BECAUSE IT COMPLETELY BELIED HIS
STORY.
FIRST OF ALL, THE FOOTPRINT
EVIDENCE, THERE'S FOUR ASPECTS
OF IT.
FIRST, THE ABSENCE OF ANYBODY
ELSE'S FOOTPRINTS IN THE BLOOD
IS EXTREMELY COMPELLING.
ONLY HIS FOOTPRINTS WERE FOUND.
THERE WERE 67 PRINTS FOUND AND
64 OF THEM WERE COMPARABLE.
THAT'S A VERY HIGH PERCENTAGE
FOR A CASE LIKE THIS.
ALL OF THEM WERE LINKED TO
MR. AGUIRRE.
SECOND, THERE WERE NO NEGATIVE
FOOTPRINT IMPRESSIONS IN THE
BLOOD.
THAT IS CRITICAL BECAUSE STATE
EXPERTS TESTIFIED THE DIFFERENCE
BETWEEN A POSITIVE AND NEGATIVE
IMPRESSION.
IF YOU TAKE RED PAINT AND SMEAR
IT ON WHITE PAPER, YOU HAVE A

COMPLETELY DRY STAMP.

SAY IT'S A STAR.

IF YOU TAKE THAT DRY STAMP AND PRESS IT DOWN INTO THE RED PAINT AND PULL IT OFF, YOU WILL SEE A WHITE STAR.

THAT'S A NEGATIVE IMPRESSION.

IF YOU NOW TAKE THAT STAMP AND GO TO A DIFFERENT PIECE OF PAPER AND PRESS IT DOWN, YOU'LL SEE A RED STAR.

THAT'S NOW A POSITIVE IMPRESSION.

IF MR. AGUIRRE'S STORY WERE TRUE, HE WOULD HAVE COME UPON THE SCENE WHILE THERE WAS ALREADY BLOOD SPILLED.

THERE WOULD HAVE BEEN A NEGATIVE IMPRESSION SOMEWHERE AND THERE WASN'T.

THE THIRD ASPECT OF THE FOOTPRINT EVIDENCE IS THAT THERE WERE THINGS THAT HAD FALLEN ON TOP OF MR. AGUIRRE FOOTPRINTS. AND THERE WAS NO EXPLANATION FOR THAT.

THERE WERE MILK CRATES THAT HAD FALLEN ON TOP.

THERE WAS EVIDENCE THAT ONE OF THE FOOTPRINTS WAS MADE AND THAT THE VICTIM'S BLOOD SPILLED OVER TOP OF IT.

THAT AGAIN WOULD BE COMPLETELY INCONSISTENT WITH HIS STORY.

SO THE FOOTPRINT EVIDENCE WAS HIGHLY COMPELLING.

THE KNIFE BEING IN HIS HAND, THE KNIFE, THE LOCATION OF THE KNIFE.

IT CAME FROM HIS PLACE OF EMPLOYMENT.

THAT'S NOT QUESTIONABLE.

THAT WASN'T EVEN CHALLENGED.

>> YOUR OPPONENT SAID THAT THAT WAS NOT ESTABLISHED.

>> PARDON ME?

>> YOUR OPPONENT SAID THAT WAS NOT ESTABLISHED, THAT IT COULD HAVE COME FROM SOME OTHER HOME.

>> I APOLOGIZE.

IT WAS NOT --

>> IT WAS ESTABLISHED THAT IT
CAME FROM HIS PLACE OF
EMPLOYMENT.

THAT'S WHAT YOUR OPPOSITION
SAYS.

>> THERE WAS TESTIMONY ON RECORD
THAT IT CAME FROM HIS PLACE OF
EMPLOYMENT.

IT WAS A CISCO KNIFE THAT CAME
FROM HIS PLACE OF EMPLOYMENT.
HIS OWN ROOMMATES TESTIFIED THAT
THAT KNIFE HAD BEEN IN HIS
HOUSE.

HE TESTIFIED THAT --

>> WAS IT IT CAME FROM THERE OR
IT COULD HAVE BEEN FROM HIS
PLACE OF EMPLOYMENT?

I MEAN, A CISCO KNIFE, I BELIEVE
I HAVE SOME IN MY KITCHEN.

AND SO IT'S NOT DEFINITE, IS IT,
THAT IT CAME FROM HIS PLACE OF
EMPLOYMENT, BUT COULD HAVE
BECAUSE IT'S CONSISTENT WITH
KNIVES THAT THEY HAVE THERE.

>> SERIAL NUMBERS BEING LINKED
TO A PURCHASE ORDER.

THERE ISN'T EVIDENCE THAT IT
CONCLUSIVELY CAME FROM THERE.

>> IT WASN'T CHALLENGED, WAS IT
IN

>> NO.

AND THERE WAS AN ISSUE WITH
RESPECT TO THAT.

THE DEFENDANT DID NOT WANT TO
TESTIFY TO THE FACT THAT THE
KNIFE CAME FROM HIS HOUSE OR
THAT HE HAD TOUCHED THE KNIFE.
AND HE SAID THIS TO COUNSEL.
COUNSEL HAD TO HAVE -- AND THIS
IS ON RECORD IN POSTCONVICTION.
COUNSEL HAD TO COUNSEL HIM
AGAINST PERJURING HIMSELF
BECAUSE HE DIDN'T WANT TO ADMIT
THAT HE HAD TOUCHED OR HELD THE
KNIFE.

HIS STORY WAS THAT HE OPENED THE
DOOR, FOUND THE BODY, PICKED THE
BODY UP, DID NOT SIT DOWN IN THE
BLOOD, BUT PICKED THE BODY UP

AND PUT IT ON HIS LAP TO TRY TO
EXPLAIN HOW HE GOT BLOOD ALL
OVER HIS CLOTHING.

CHECKED FOR A PULSE.

PUT THE BODY BACK DOWN.

THEN FOUND A KNIFE AT THE CRIME
SCENE.

SO HIS TESTIMONY WAS
INCONSISTENT WITH THE TESTIMONY
OF HIS OWN ROOMMATES WHO SAID
THERE WAS A KNIFE JUST LIKE THAT
IN OUR HOUSE THAT ISN'T THERE
ANYMORE THAT IS NOW MISSING.

>> THERE'S ALL THIS TESTIMONY,
IT SEEMS TO ME, THAT THERE WERE
PEOPLE -- THESE PEOPLE WERE IN
AND OUT OF EACH OTHER'S HOUSES
AND GOING TO DIFFERENT THINGS.
I MEAN, A SIMPLE EXPLANATION
COULD POSSIBLY BE THAT AT SOME
POINT DURING ONE OF THESE THINGS
THE KNIFE THAT HE HAD ENDED UP
OVER AT HER HOUSE SOMEHOW.

I MEAN, I'M JUST NOT SURE THAT
THAT'S NECESSARILY --

>> OKAY.

THEN LET'S MOVE ON TO THE BLOOD
EVIDENCE WITH RESPECT TO HIS
STORY AND THE LOCATION OF THE
BODY.

HE TESTIFIED THAT HE PICKED UP
CHERYL, PUT HER ON HIS LAP.

THIS IS TO EXPLAIN HOW HE WOULD
HAVE GOTTEN BLOOD ALL OVER HIM.
AND WHEN I SAY BLOOD ALL OVER
HIM, HE WAS SATURATED, THROUGH
HIS SHORTS, INTO HIS UNDERWEAR
AND BLOOD WAS FOUND ON HIS SOCKS
BENEATH WHERE HIS SHOES WOULD
HAVE BEEN COVERING THEM.

SO HE WAS THOROUGHLY DRENCHED IN
THE VICTIM'S BLOOD.

NOW, THIS IS THE MOST CRITICAL
AND REALLY COMPELLING EVIDENCE.
AGAIN, IN ORDER TO -- HE TRIED
TO EXPLAIN AWAY OR TRIED TO
PROVE THAT THE BODY WAS ACTUALLY
MOVED AFTER THE BODY HAD BEEN --
AFTER DEATH.

AND THE ONLY WAY -- AND THIS IS

IF YOU ASSUME -- IF YOU ACCEPT HIS EXPERT'S TESTIMONY, STILL THE ONLY WHY THAT COULD HAVE HAPPENED IS IF HE PICKED THE BODY UP, PUT IT ON HIS LAP AND THEN REPLACED IT BACK IN THE EXACT SAME POSITION, NOT ONLY SPATIALLY WHEN YOU LOOK DOWN FROM A BIRD'S EYE VIEW, BUT HER CHIN WOULD HAVE HAD TO BE IN THE SAME POSITION ON HER SHIRT, THE LEGS WOULD HAVE HAD TO HAVE BEEN AT THE EXACT SAME ANGLE. THE CHIN ON THE SHIRT IS COMPELLING.

IT'S SPARRING.

SPARRING EXPLAINS THAT THERE ARE PLACES WHERE NORMALLY THERE WOULD BE BLOOD, BUT THERE ISN'T. AND IN THIS CIRCUMSTANCE IT WAS BECAUSE THE VICTIM'S CHIN WAS RESTING ON HER SHIRT.

SO WHILE THERE WAS BLOOD IN THE FACE AREA, WHEN THE MEDICAL EXAMINER WHO MOVED THE BODY FOR THE FIRST TIME MOVED THE HEAD, THE CHIN WAS COMPLETELY CLEAN OF BLOOD.

SO IT'S LIKE A JIGSAW PUZZLE. HE WOULD HAVE HAD TO HAVE PUT THE BODY BACK AND NOT ONLY THE BODY FROM A BIRD'S EYE VIEW IDENTICAL TO THE WAY IT WAS, BUT EVEN THE CHIN WOULD HAVE HAD TO HAVE COME INTO CONTACT WITH THE SHIRT IN THE EXACT SAME POSITION.

HIS STORY MAKES NO SENSE WHEN YOU LOOK AT THE FORENSIC EVIDENCE AND EXPERT TESTIMONY WITH REGARD TO THOSE FACTORS. AND THIS IS WHY THE BLOOD EVIDENCE AND THE NEW DNA EVIDENCE IS REALLY A RED HERRING.

THE KNIFE WAS SUCH THAT IT WASN'T PRONE TO SLIP DURING THE STABBING.

EXPERTS TESTIFIED IT HAPPENS OFTEN THAT IN A STABBING CASE IF

YOU'RE USING A POCKET KNIFE OR SOMETHING LIKE THAT AND YOU'RE STABBING, YOUR HANDS GET WET WITH BLOOD AND THEN THEY SLIP AND COME INTO CONTACT WITH THE BLADE AND THAT'S HOW THE ASSAILANT GETS CUT.

THIS WAS A CHEF'S KNIFE, WHERE THE BLADE WAS MUCH TALLER THAN THE HANDLE.

CHEFS KNIVES ARE BUILT THAT WAY TO PREVENT PEOPLE FROM BEING CUT.

>> WAS ANYTHING TAKEN FROM THE
-- I GUESS I'M GOING BACK TO THIS MOTIVE ISSUE.

ANYTHING TAKEN FROM THE HOME?

>> NO EVIDENCE OF THEFT.

>> WAS THERE ANYTHING OF VALUE IN THERE?

>> NO EVIDENCE OF THEFT.

SAMANTHA'S ROOM WAS RANSACKED, BUT THERE'S NOTHING ON RECORD AS TO IF ANYTHING WAS BEING STOLEN OR NOT.

BUT THAT IS CONSISTENT WITH THE IDEA THAT AGUIRRE HAD A FIXATION ON SAMANTHA.

SAMANTHA TESTIFIED -- AND THAT IS WHAT DEFENSE COUNSEL SAID WITH RESPECT TO INEFFECTIVE ASSISTANCE OF COUNSEL.

I DIDN'T INVESTIGATE SAMANTHA BECAUSE THAT WAS A DANGEROUS AREA TO GO.

SHE WAS VERY SYMPATHETIC.

SHE WAS A SURVIVOR OF THE DOUBLE HOMICIDE OF HER MOTHER AND GRANDMOTHER.

HE ALSO DIDN'T BELIEVE THAT HE HAD SUFFICIENT GROUNDS TO GET HER RECORDS AS FAR AS HER BAKER ACT.

>> BECAUSE THERE WAS NO EVIDENCE THAT HER DNA WAS IN THE BLOOD OR ANY OF THAT.

I MEAN, SO BY NOT DOING ANYTHING, BY THE DEFENSE ATTORNEY NOT DOING ANYTHING, HE LEFT HER AS A SYMPATHETIC PERSON

THAT THE JURY IS GOING TO, YOU KNOW, -- SHE'S LOST HER MOTHER, SHE'S LOST HER GRANDMOTHER. SO, YEAH, SHE'S GOING TO BE A SYMPATHETIC PERSON.

>> RIGHT.

AND THERE WAS A LACK OF EVIDENCE ARGUMENT THAT HE COULD RELY ON THAT WAS CONSISTENT.

>> DID YOU FINISH YOUR FOURTH POINT?

YOU SAID I'M GOING TO TELL YOU FOUR POINTS.

>> WITH RESPECT TO THE BLOOD EVIDENCE?

>> YOU SAID THERE ARE FOUR THINGS.

SO DID YOU FINISH THOSE?

>> THAT WAS WITH RESPECT TO THE BLOOD EVIDENCE.

FOOTPRINT EVIDENCE.

THE LACK OF ANYBODY ELSE FOOTPRINT EVIDENCE, IF IT WASN'T AGUIRRE, THEN SOMEBODY WOULD HAVE HAD TO COMMITTED THESE HORRIBLY --

>> YOU DON'T HAVE TO RESTATE IT ALL.

DID YOU FINISH IN

>> YES.

>> YOU DIDN'T MENTION ANYTHING ABOUT THE CONFESSIONS.

ARE YOU SAYING THERE WERE CONFESSIONS?

>> THERE WERE TWO SETS OF STATEMENTS.

THE FIRST SET HAPPENED WITHIN A YEAR OR TWO AFTER THE MURDER.

THE STATE DOES NOT AGREE THAT THE FIRST SET WERE CONFESSIONS.

THESE WERE THINGS WHERE SHE SAID THINGS ALONG THE LINES OF --

>> AND ARE YOU TALKING ABOUT THE STATEMENTS TO THE NEIGHBORS?

>> NO.

THE NEIGHBORS I AGREE WERE CONFESSIONS, YES.

THOSE ARE THE ONES TO THE NEIGHBORS.

BUT EVERY SINGLE -- I'LL GET TO

THOSE.

THE FIRST SETS WERE NOT.
SHE DID NOT SAY THE DEVIL MADE
ME KILL MY MOM AND GRANDMA.
SHE JUST SAID THE DEVIL MADE ME
DO IT AND MADE A STABBING
MOTION.

THOSE WERE IN THE PRELIMINARY
STATEMENTS.

IN THE MORE RECENT STATEMENTS
WHERE SHE DID SAY I KILLED MY
MOM AND GRANDMA, EVERY SINGLE
INSTANCE WERE UNDER THE SAME
CIRCUMSTANCES, WHERE SHE JOINED
A GROUP OF PEOPLE WHO WERE IN A
SOCIAL SETTING AND THEN THEY
STARTED TO OUTCAST HER.

SHE DRANK FROM HER BOTTLE BEFORE
POURING IT INTO A GLASS.

THEY SAID YOU GOT TO LEAVE.

IT WAS ALWAYS IN A SITUATION
WHERE SHE GOT HER FEELINGS HURT
AND SHE LASHED OUT AND SAID YOU
DON'T KNOW ME, I'M CRAZY, I

KILLED MY MOM AND GRANDMOTHER.

THE STATEMENTS WERE TRUE
CONFESSIONS ALWAYS HAVE
CIRCUMSTANCES THAT CREATE THEM
TO BE UNRELIABLE UNDER THE
CIRCUMSTANCES.

>> YOU ARE OUT OF YOUR TIME, BUT
ONE QUESTION.

DID SHE INHERIT ANYTHING FROM
HER MOTHER AND GRANDMOTHER?

>> NOT TO MY KNOWLEDGE.

>> THE TRAILER, WAS THAT OWNED
BY HER?

>> THEY DON'T APPEAR TO BE
PEOPLE OF SUBSTANTIAL MEANS.

>> NO.

ANY MEANS.

WAS THERE ANYTHING?

OR DID ANYONE EVER INVESTIGATE
THAT?

>> I DON'T KNOW IF IT WAS
INVESTIGATED.

I DIDN'T COME ACROSS ANYTHING ON
RECORD WITH RESPECT TO ANY
POTENTIAL INHERITANCE.

>> ALL RIGHT.

THANK YOU.

>> THANK YOU.

>> YOUR HONOR, TO GO TO THIS QUESTION ABOUT THE MOTIVE OF SAMANTHA WILLIAMS, THERE WAS TESTIMONY THAT CAME OUT IN POSTCONVICTION THAT SHE WAS THE HEIR OF CHERYL WILLIAMS, THAT SHE WOULD HAVE INHERITED THE TRAILER.

THERE WAS TESTIMONY BEFORE TRIAL THAT THERE WAS A FIGHT THE NIGHT BEFORE ABOUT MAKING DAIQUIRIS AND SPILLING SOMETHING ON THE FLOOR.

SHE HAD JUST CLEANED THE FLOOR AND SHE HAD TO CLEAN IT AGAIN. THERE'S ALSO TESTIMONY THAT SAMANTHA WILLIAMS WAS BEING PIMPED OUT BY HER MOTHER FOR DRUGS.

SO THERE'S NO MOTIVE TESTIMONY OF MR. AGUIRRE.

EVERYTHING AT THE TRIAL WAS BASED ON THE BURGLARY AND CREEP FACTOR.

THERE'S ALL SORTS OF MOTIVE TESTIMONY FROM A WOMAN WHO HAS A HISTORY OF MENTAL ILLNESS AND VIOLENCE.

>> THIS FOOTPRINT EVIDENCE, WHAT WAS JUST RELATED, AGAIN, WE'RE NOT HERE TO SAY THAT HE'S EXONERATED.

WE'RE HERE TO SEE IF HE GETS A NEW TRIAL.

THAT SOUNDS LIKE SOME PRETTY POWERFUL EVIDENCE.

IS IT IRREFUTABLE THAT YOU HEAR THAT EVIDENCE AND THERE'S NO WAY THAT YOU COULD FIND THE DEFENDANT NOT GUILTY?

>> SO WITHOUT QUESTION, YOUR HONOR, THE FOOTPRINT EVIDENCE IS CHALLENGING.

BUT THERE IS A PLAUSIBLE EXPLANATION.

>> WHICH IS WHAT?

>> WHICH IS THAT IN THOSE STEPS THEY WERE WHAT WERE DESCRIBED AS

PASSIVE WALKING.
SO STRAIGHT LINE WALKING.
ALL OF THE TRANSFERS WERE NEAT,
NICE TRANSFERS.
THEY WEREN'T SKIDDING OR
TURNING.
THIS WAS A VIOLENT --
>> SO HOW DID THEY GET THERE?
>> THEY GOT THERE AFTER THE
DEFENDANT ARRIVES.
HE FINDS THE BODY.
HE ROLLS CHERYL WILLIAMS' BODY
ONTO HIS CLOTHES AND WALKS
THROUGH THE HOUSE.
>> HOW DO YOU EXPLAIN THE CHIN?
HOW DO YOU EXPLAIN WHAT OPPOSING
COUNSEL SAID ABOUT THE CHIN?
IF HE'S GOING THROUGH THESE
MOTIONS AND THIS SQUATTING THERE
ON THE FLOOR, HOW DO YOU EXPLAIN
THAT HER CHIN, THE EVIDENCE
RELATED TO THE CHIN?
>> SO THE EVIDENCE IS ACTUALLY
CONFLICTING ABOUT THIS.
WE NOW HAVE A MEDICAL EXAMINER
EXPERT WHO SAID THAT IN FACT THE
BODY HAS BEEN MOVED.
AND HE USES DR. BEAVER'S
TESTIMONY TO SAY WHAT HE IS
DESCRIBING TO YOU WE CAN SEE
THERE IS A DOUBLE RING.
DR. BEAVER'S SAYS IF THE BODY
HAD BEEN MOVED, YOU WOULD HAVE
SEEN A DOUBLE RING.
YOU SEE THAT.
YOU SEE TWO BLOODLINES RUNNING
DOWN HER BACK THAT WOULD HAVE
BEEN CAUSED BY GRAVITY.
>> THERE'S AN EXPLANATION FOR
THE BODY BEING MOVED A LITTLE
BIT, JUST BY THE FACT THAT WHEN
THE BOYFRIEND CAME TO THE DOOR,
HE PUSHED THE DOOR OPEN, TO SOME
EXTENT MAYBE -- WOULDN'T THE
EVIDENCE SUPPORT THAT?
>> THAT THE BODY HAD BEEN MOVED?
YES.
BUT JUST PUSHING THE BODY
WOULDN'T CAUSE THE BLOODLINES TO
RUN DOWN HER BACK.

THE NEW FORENSIC EVIDENCE IS
COMPELLING.

YOU HEARD ABOUT THE DEFENDANT'S
CLOTHES BEING STAINED IN BLOOD.
AT TRIAL THE STATE'S EXPERT --
>> ACTUALLY, HE USED A MORE
GRAPHIC TERM, LIKE SOAKED IN
BLOOD.

>> SOAKED IN BLOOD.
SO THE STATE'S EXPERT HAD LESS
THAN THREE YEARS OF EXPERIENCE.
HE TESTIFIES THAT SOME OF THOSE
STAINS COULD HAVE BEEN CAUSED BY
MOTION.

THE STATE AT CLOSING SAYS THIS
IS, QUOTE, IMPORTANT, IMPORTANT
EVIDENCE THAT SOME OF THOSE
BLOODSTAINS HAD TO HAVE BEEN
CAUSED BY MOTION.

AND IN FACT IN THIS COURT'S
OPINION ON DIRECT APPEAL IN
THREE PLACES THE COURT SAYS THIS
IS IMPORTANT EVIDENCE, IT WAS
CAUSED BY MOTION, BECAUSE THAT'S
WHAT THE STATE SAID AT TRIAL AND
IN THEIR BRIEF.

NOW A 35-YEAR FORENSIC ANALYST
VETERAN SAYS NONE OF THOSE
BLOODSTAINS COULD HAVE BEEN
CAUSED BY MOTION.

HENDERSON DIDN'T -- THE STATE
NEVER REBUTS THAT.

THEY HAD SCOTT HENDERSON LISTED.
THEY DIDN'T CALL HIM.

THIS CASE IN THAT SENSE IS JUST
LIKE FITZPATRICK, WHERE THE
TRIAL COUNSEL KNOWS THAT THAT'S
GOING TO BE THE STATE'S THEORY,
THAT THEY'RE GOING TO HAVE A
SCIENTIFIC EXPLANATION.

THEY GO INTO TRIAL WITH NO
SCIENCE TO SUPPORT WHATEVER IT
IS THAT THE STATE'S GOING TO
SAY.

SO IF THE STATE'S EXPERT, WHO'S
NOT QUALIFIED, SAYS THIS WAS
CAUSED BY MOVEMENT, THEY WOULD
HAVE NO WAY TO REBUT IT.

THAT'S THIS COURT'S DECISION IN
THEIR CASE.

THERE WAS MORE CHALLENGING EVIDENCE IN HILDWIN AND IN SWAFFORD.

>> DID I READ RIGOR MORTIS HAD SET IN?

>> SO HE COULD MORE EASILY PUT IT IN THE SAME PLACE.

THE NEW EVIDENCE HERE IS STAGGERING.

A NEW ALTERNATIVE SUSPECT, WHO WAS ONE OF THE STATE'S KEY WITNESSES AT TRIAL, WHO HAS A HISTORY OF MENTAL ILLNESS AND VIOLENCE TOWARD HER FAMILY MEMBERS, WE SEE THAT IN THE RECORD, WHOSE DNA IS NEXT TO THE BLOOD.

THE DEFENDANT'S DNA IS NOWHERE AT THE CRIME SCENE.

WE KNOW THE KILLER COULD NOT HAVE BEEN WEARING HIS CLOTHES. DUE PROCESS DEMANDS HE PRESENT THIS EVIDENCE TO A JURY BEFORE HE IS EXECUTED.

THIS COURT SHOULD REVERSE.

>> THANK YOU, COUNSEL, FOR YOUR ARGUMENTS.